DEPARTMENT OF STATE REVENUE

Information Bulletin #78
Sales Tax
November 2022
Effective Date: Upon Publication
(Replaces Bulletin #78, dated December 2009)

SUBJECT: Application of Indiana Sales Tax to Layaway Fees

REFERENCES: IC 6-2.5-1-1; IC 6-2.5-1-5; IC 6-2.5-2-1; IC 6-2.5-4-1

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SUMMARY OF CHANGES
Apart from technical, nonsubstantive changes, this bulletin has been revised to clarify the process for collecting and reporting sales tax for a transaction that has been purchased on layaway.

INTRODUCTION
The purpose of this bulletin is to describe the process for collecting Indiana sales tax for a transaction that has been purchased on layaway, as well as the application of sales tax to any layaway fees. A retail transaction is essentially the transfer of tangible personal property from a retail merchant to a purchaser for consideration. However, in the case of a layaway sale, transfer of the property does not occur until the final payment is made.

WHEN TO COLLECT AND REMIT SALES TAX
The initial and interim layaway payments are considered deposits and not individual retail sales, and therefore they are not subject to sales tax at the time they are made and the retailer would not report the deposits at the time they are taken. Rather, upon final payment and transfer of the item(s) sold, retailers must collect Indiana sales tax on the entire amount paid for the item(s) (initial, interim, and final payments) and report the entire layaway sale.

Any layaway fee that has been separately stated is not included within gross retail income, which is the amount of consideration received by the merchant that is subject to sales tax, and therefore the separately stated layaway fee would not be subject to sales tax. If the layaway fee is not separately stated, it is subject to sales tax. If, at any time, the layaway fee is forfeited due to the cancellation of the sale, the fee is not subject to sales tax whether or not it has been separately stated.

   Example #1: A retailer sells a $500 bicycle to a customer on a layaway plan in August, accepting a deposit of $100 plus a $50 layaway fee that is separately stated on the retailer's business records. The customer pays the retailer $100 in September, $100 in October, and $100 in November. When the customer returns in December, she pays the balance due ($100) and takes possession of the bicycle. The retailer would report the sale as taking place in December with a taxable selling price of $500.

   Example #2: A retailer sells a $500 bicycle to a customer on a layaway plan in August, accepting a deposit of $100 plus a $50 layaway fee that is not separately stated on the retailer's business records. The customer pays the retailer $100 in September, $100 in October, and $100 in November. When the customer returns in December, she pays the balance due ($100) and takes possession of the bicycle. The retailer would report the sale as taking place in December with a taxable selling price of $550.

   Example #3: A retailer sells a $500 bicycle to a customer on a layaway plan in August, accepting a deposit of $100 plus a $50 layaway fee. In September, the transaction is cancelled and the retailer refunds $100 to the customer and keeps the $50 layaway fee. No sales tax is due on the transaction.

If you have any questions concerning this bulletin, please contact the Tax Policy Division at taxpolicy@dor.in.gov.

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Robert J. Grennes, Jr.
Commissioner

Posted: 04/26/2023 by Legislative Services Agency
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